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White House Telecom Hypocrisy

By Rep. John Conyers, Jr.

Many a president has learned the cardinal rule of electoral politics: don't flip-flop on issues of national import. For the first President Bush, his reversal on the "no new taxes" pledge cost him his political base in the '92 election. President Clinton's perceived abandonment of the middle class tax-cut he promised in the 1992 campaign gave ammunition to critics who falsely claimed he lacked core principles.

In 2004, the hypocrisy charge seems as potent as ever in the race for the White House. Already the Bush campaign is in full-throated attack mode on the presumptive Democratic nominee, Senator John Kerry, accusing him of hypocrisy on terrorism, taxes, and just about everything else. For his part, Kerry has shot right back, pointing out that the President threatened to veto the Homeland Security Agency bill over which the White House now claims proud authorship.

by allowing competitors to lease the Bells' publicly financed networks. Under the rules, the Bells would make a reasonable profit, the competitors wouldn't have to reinvent the wheel (or build duplicative telephone lines), and consumers would benefit.

The results speak



for themselves: these competition rules have created over 150,000 jobs, and \$200 billion in new investments. 19 million Americans have shunned the old monopolies in the process, choosing instead a competitive carrier.

In the past, the White House has wisely insisted on the legitimacy of the bipartisan FCC's rules in the federal courts, defending them each time the Bells launched legal attacks. Before the U.S. Supreme Court in May of 2002, for instance, Olson argued that the rules were "a very conscientious

earlier D.C. Circuit decision to block the rules, the Bush Justice Department argued that the judges "overstepped the bounds of proper judicial review." In other instances, the Bush administration has been even more forceful in its advocacy on behalf of telecom competition, arguing in one brief that the '96 Act "serves a crucial role in opening local markets to competition." The "incumbents' control over those facilities afforded them a de facto monopoly position in most local telecommunications markets," the administration had rightly insisted.

On March 2nd of this year, the very same circuit court again sought to block the FCC's local competition rules. Wasting no time, the Bells promptly pressured the White House to reverse its historical position and to sit on its hands rather than appeal to the Supreme Court.

And it worked. The administration first tried to punt the ball back to private industry, asking the Bells and its competitors to negotiate commer-

Now, in a flip-flop with potentially disastrous consequences for American consumers and workers, President Bush's top courtroom lawyer, Ted Olson, has reversed the Administration's well-established support for the nation's telecom competition laws. After a well-financed lobbying campaign, the nation's telephone monopolies have successfully convinced the White House to side with corporate interests instead of hard-working Americans.

Here's what happened. Our telecommunications infrastructure was built at the expense of taxpayers. After the breakup of Ma Bell, and before the 1996 Telecommunications Act, the four regional Bell operating companies enjoyed complete control of that infrastructure. In the Telecom Act and the FCC's regulations implementing it, the federal government fostered a competitive marketplace

effort to import competition, bring down prices, and to promote technology," and argued that "it would be wise to have competition in the local telephone market."

Finding Olson's arguments persuasive, the Court backed the administration while chastising the Bells, calling their arguments "patently mis-stated."

For the most part, the federal courts have followed the lead of the Supreme Court and have consistently backed competition policy. That is, of course, with the exception of one single judicial panel—a three-member panel of the U.S. Court of Appeals for the D.C. Circuit—which has consistently blocked the FCC's implementing regulations. Each time this judicial panel has sought to block these rules, the White House has consistently defended the FCC - until now, that is.

In June 2002, for instance, following an

cial agreements. But the process was doomed from the start because the deck was stacked against competitors, with the monopolies holding all of the cards. Consumers were hoping that the Administration's historical position on the issue, and Ted Olson's frequent pronouncements on its behalf, would be the ace up their collective sleeve. In the end, the card turned out to be a joker.

A White House facing consumer backlash from high gas prices, lagging employment and a languishing recovery will now add a new burden to working families: higher phone bills. However, the joke may ultimately be on the President for this monumental reversal. In the end, come November, 19 million consumers may not be the only ones left in the cold.

Representative Conyers is the Ranking Member on the House Judiciary Committee.